

REMARKS

Upon entry of the instant Response and Amendment, Claims 11-13 and 26-33 will remain pending in this application.

In the Office Action mailed October 4, 2006, Claims 10, 11, 26-28 and 30-33 are rejected under 35 U.S.C. §102(b), as being anticipated by WO 01/34297 in the name of Ooms et al. (which is equivalent to U.S. Pat. No. 6,919,293). Claims 10, 12 and 13 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,919,293 issued to Ooms et al. in view of U.S. Pat. No. 6,835,801 issued to Hayes. Claim 29 is objected to as being dependent upon a rejected base claim. The Specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. Claim 10 is objected to because of informalities.

Applicants confirm the correctness of the Examiner's presumption at page 4, paragraph numbered 9 of the instant Office Action regarding ownership of the presently claimed subject matter.

Rejections under 35 U.S.C. §102(b) as anticipated by Ooms et al.

Claims 10, 11, 26-28 and 30-33 stand rejected under 35 U.S.C. §102(b), as being anticipated by WO 01/34297 in the name of Ooms et al. (which is equivalent to U.S. Pat. No. 6,919,293). At page 3, paragraph numbered 6, the Examiner states,

Ooms et al. teach preparing a polyether polyol from a polypropylene glycol starter and propylene oxide using a DMC catalyst which has been prepared with a metal salt (zinc chloride), a metal cyanide salt (potassium hexacyanocolbatate), an organic complexing agent (t-butanol), a functionalized polymer (a polyester of adipic acid and diethylene glycol) and an alkali metal salt (sodium cholate). See entire disclosure, in particular Examples C and 3.

Claim 10 has been cancelled, thus obviating any grounds for rejection based upon that claim. Applicants have amended the remaining claims to depend from Claim 29. Given the Examiner's indication (at page 6, paragraph 11 of the instant Office Action) of allowable subject matter recited in that claim, applicants respectfully contend that claims dependent upon Claim 29 are also allowable for the same reasons as is Claim 29.

Therefore, Applicants respectfully request the Examiner reconsider and reverse her rejection of Claims 11, 26-28 and 30-33 under 35 U.S.C. §102(b), as being anticipated by WO 01/34297 in the name of Ooms et al. (which is equivalent to U.S. Pat. No. 6,919,293).

Rejections under 35 U.S.C. §103(a) as rendered obvious by Ooms et al in view of Hayes

Claims 10, 12 and 13 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,919,293 issued to Ooms et al. in view of U.S. Pat. No. 6,835,801 issued to Hayes. At page 5, paragraph numbered 10, the Examiner states,

Ooms et al. teach the invention as disclosed above, but fail to teach preparation of a polyester polyol or a polyetherester polyol.

Hayes teaches that DMC catalysts can be used to produce polyether, polyester and polyetherester polyols (see column 1, lines 47-53).

One having ordinary skill in the art at the time the invention was made would have found it obvious to utilize the catalyst of Ooms et al. to prepare a polyester polyol or a polyetherester polyol, since Hayes teaches that DMC catalysts are suitable for preparing polyester polyols polyetherester polyols.

Claim 10 has been cancelled, thus obviating any grounds for rejection based upon that claim. Claims 12 and 13 have been amended to depend from Claim 29. Given the Examiner's indication (at page 6, paragraph 11 of the instant Office Action) of allowable subject matter recited in that claim, Applicants respectfully contend that claims dependent upon Claim 29 are also allowable for the same reasons as is Claim 29.

Therefore, Applicants respectfully request the Examiner reconsider and reverse her rejection of Claims 12 and 13 under 35 U.S.C. §103(a) as being unpatentable over U.S. Pat. No. 6,919,293 issued to Ooms et al. in view of U.S. Pat. No. 6,835,801 issued to Hayes.

Claim objections

Claim 10 has been objected to for informalities. Claim 10 has been cancelled, thus obviating any grounds for objection based upon that claim.

Claim 29 is objected to as being dependent upon a rejected base claim. The Examiner indicates at page 6, paragraph 11 of the instant Office Action that this claim would be allowable if rewritten in independent form including the limitations of the base claim and any intervening claims. Applicants have so rewritten Claim 29 and respectfully request the Examiner remove her objection thereto.

Objections to the Specification

At page 2, of the instant Office Action, paragraph numbered 3, the Examiner states,

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP §608.01(o) . Correction of the following is required: the specification does not provide support for the limitation "wherein at least one functionalized polymer is present in an amount in the range of from about 2 to about 98 wt% based on the total weight of the double metal cyanide catalyst". See specification page 7, lines 11-15, wherein the maximum range is disclosed as being from about 2 to about 80-wt %.

Applicants note that originally filed Claims 6 and 19 both recited the functionalized polymer as being present in an amount in the range of from about 2 to about 98 wt% based on the total weight of the double metal cyanide catalyst, therefore as permitted by MPEP §608.01(l) Applicants are herein amending the paragraph found at page 7, lines 11-15 to recite the originally claimed range of about 2 to about 98 wt % and respectfully request the Examiner remove her objection to the Specification as failing to provide proper antecedent basis for the claimed subject matter.

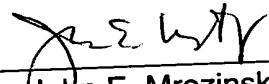
Conclusion

Applicants have amended Claims 11-13 and 26-33; have cancelled Claim 10; and have amended the Specification. Such claim amendments add no new matter and find support in the specification.

Applicants submit that the instant application is in condition for allowance. Accordingly, reconsideration and a Notice of Allowance are respectfully requested for Claims 11-13 and 26-33. If the Examiner is of the opinion that the instant application is in condition for other than allowance, she is invited to contact the Applicants' attorney at the telephone number listed below, so that additional changes to the claims may be discussed.

Respectfully submitted,

By


John E. Mrozinski, Jr.
Attorney for Applicants
Reg. No. 46,179

Bayer Polymers LLC
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3024
FACSIMILE PHONE NUMBER:
(412) 777-3902
s:\shared\kgb\6961D1resp